

On this day, Plaintiff Bytemark, Inc. (“Plaintiff”) and Defendants Xerox Corp., ACS Transport Solutions, Inc., Xerox Transport Solutions, Inc., Conduent Inc., and New Jersey Transit Corp. (collectively, “Defendants”) through their undersigned counsel, hereby stipulate and agree, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii), to dismiss Counts One and Two in Plaintiffs’ Second Amended Complaint (Dkt. No. 73) without prejudice. Defendants further stipulate that they will not assert a defense of laches, estoppel, or waiver that is based on this dismissal if Plaintiff later makes a claim of patent infringement based on U.S Patent No. 8,494,967 or U.S. Patent No. 9,239,993 (the “Patents”) within one year of a decision of the Court of Appeals for the Federal Circuit sustaining the validity of the Patents. However, this stipulation does not prevent Defendants from raising a defense of laches, estoppel, or waiver based on facts separate and apart from the dismissal agreed to here.

Dated: March 11, 2019

Respectfully submitted,

/s/ Dariush Keyhani

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SO ORDERED:


Paul G. Gardephe, U.S.D.J.

March 15, 2019